

?????? C-63/04

Centralan Property Ltd

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Commissioners of Customs & Excise

[?????? ??? High Court of Justice (England & Wales), Chancery Division,

??? ??? ?????? ?????????????? ??????????]»

«???? ?????? ??? — ?????? 20, ?????????? 3 — ?????? ?????????? — ??????? ??? ???
????? — ?????????????? ??? ?????????? — ?????? — ?????????? ?????? ?? ??? ??????
??? ?????????? ?????? ??? ??? ??? ?????? ? ??? ?????????? ??? ??? ?????? ??? ??? ??? ??? ?
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????????? ??? ?????? ?????????? J. Kokott ??? 17?? ?????? 2005

????????? ??? ?????????? (????? ????) ??? 15?? ?????????? 2005

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????????? ?????? — ?????????? ??? ?????????? — ?????? ?????? ?????????? — ???
????? ??? ?????? ?????????????? ??? — ?????? ??? ?????? ?????? — ??? ?????????? —
????????????? ??? ?????? ?????? — ?????????? ??????, ??? ??? ?? ??? ??? ???
????????? ???????????, ?? ??? ?????? ??? ?????????? ?????? ?????? ??? ??? ??? ??? ???
? ??? ?????????? ??? ??? ??? ??? ? ??? ?????? ?????????? — ????????

(?????? 77/388 ??? ??????????, ??? 5 § 1 ??? 20 § 3)

? ? ?????? ??? ?????????? ??? ?????????????, ?? ??? ?????? ?????????? ??? ?????? 17 ??? 20
??? ?????? ?????? 77/388, ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ??? ?????? ?????? ??????, ??? ?? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

? ? ?????? 20, ?????????? 3, ??? ?? ??? ?????? ???, ?? ??? ?????? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?? ??? ?????? ??? ??????????
????????????, ??? ?? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ??? ?????? ??? ??????????
????????? ??? 999 ??? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ??
????????????? ?????? ?????? («freehold reversion») ??? ??? ?????? ???
????????????? ?????? ?????? ?????????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???,
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– ??? ?????????? ?? ??? ???, ?????????????, ??? ??? ?? ??? ??????, ??????????????,
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– ??? ?????? ?? ?????? ?????? ?????? ?????????, ??? ??? ?????????? ??? ?????????? ??

????????? ? ?????????? ??? ??????????? ?? ?? ??? ????? ?????? ?????????? ?? ??????, ??????????
???? ??? ?????? ??? ?????? 5, ?????????? 1, ??? ????? ?????? ??????,
?? ?? ??? ?????? ?????? ?????????? ?? ??? ?????? ?????? ?????????? ??
????????????? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ??????
????????? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ??????
????? ??????.

(?? . ??????? 56, 73, 82 ??? ??????.)

????????? ??? ?????????? (????? ????)

??? 15?? ?????????? 2005 (*)

«????? ?????? ??? – ??? 20, ?????????? 3 – ??? ?????? – ??????? ??? ?????? ??????
– ?????????? ??? ?????? – ?????? – ?????????? ?????? ?? ??? ?????? ???
????????? ??? ?????? ??? ??? ??? ?????? ? ??? ?????????? ??? ??? ??? ??? ??? ? ???
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????? ?????? C?63/04,

?? ?????????? ?????? ?????? ?????????? ?????????? ?????? ??? ?????? 234 ??,
?? ?????? ?? High Court of Justice (England & Wales), Chancery Division (??????
??????), ?? ?????? ??? 21?? ?????????? 2003, ? ?????? ?????? ??? ?????????? ???
13 ?????????? 2004 , ??? ?????? ??? ??????

Centralan Property Ltd

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Commissioners of Customs & Excise,

?? ?????????? (????? ????),

????????? ??? ??? A. Rosas, ?????? ???????, A. La Pergola, J.?P. Puissochet, U. Lõhmus
?? A. Ó Caoimh (??????), ???????,

????? ??????????: J. Kokott

?????????: L. Hewlett, ?????? ?????????? ??????????,

????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
16?? ?????????? 2005,

????????? ??? ?????? ??? ?????????? ??? ??????:

– ? Centralan Property Ltd, ?????????? ??? R. Cordara, QC, ??? P. Key, barrister,
?? ?????? ??' ?????? ??? ?????????? ?????? Landwell,

– ? ?????????? ??? ??????? ??????????, ?????????????? ??? ??? K. Manji,
????????????? ??? ??? N. Pleming, QC,

– ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? R. Lyal,
???? ?????? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?? ??????????
??? 17?? ?????? 2005,

?????? ??? ????????

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1 ? ?????? ?????? ?????????? ?????????? ?????? ??? ?????????? ??? ?????? 20,
????????? 3, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ??????
????????? – ??? ?????? ?????? ?????? ?????????????? ????: ?????????? ?????????? ??? (??
???. ???.. 09/001, ?. 49), ??? ?????????? ?? ??? ?????? 95/7/?? ??? ??????????, ???
10?? ?????? 1995 (?? L 102, ?. 18, ??? ?: ??? ??????).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? Centralan
Property Ltd (???: Centralan) ??? ??? Commissioners of Customs & Excise (???:
Commissioners), ?? ?????? ??? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ???
????????? ??? ?????? ?????????????? ??? (???: ???), ?????????? ?? ??? ??????
????? ?????? ? ?????????????? ??? ?????????? ??? ?????????????? ??? ??? ?????? ???
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3 ??? ?? ???? 2, ?????? 1, ??? ?????? ??????, ??? ??? ?????????? «?? ??????????
?????? ??? ?? ?????? ?????????? ??? ?????????????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
?????».

4 ?? ????? 4, ?????????? 3, ??? ?? ??? ?????? ?????? ??? ?? ???:

«?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ???
????????????? ?????????????? ??' ?????? ??? ?????? ??? ?????? ?????????? ??? ?????
????????? 2 ??????????????, ??? ?????? ??? ??? ??? ?????? ??? ??????:

?) ?????? ?????? ?????? ? ?????? ?????? ??? ??? ?????????? ??? ??????, ???
????????????? ??? ??? ?????? ?????????? ??? ??? [...]».

?? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????????, ??? ?????? ???
????????? ??? ?????? ?????????????, ??? ?? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ??? ?????? ??? ??????
????????? [...]».

5 ?? ????? 5 ??? ?????? ??????, ??? ??????????: «????????? ???», ?????? ?? ???:

«1. ?? “????????? ??????” ?????????? ? ?????????? ??? ???????? ?? ??????? ?????? ??????
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[...]

3. ?? ?????? ??? ?????????? ?? ??????? ?? ?????????? ??????:

?) ??????? ?????????? ??? ???????,

?) ?? ?????????? ??????????, ?? ????? ?????????? ??? ?????????? ?????? ?????? ?????? ???
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?) ?? ??????? ??? ??? ??????? ??? ?????? ? ?????? ?????????? ?????? ?????? ? ??????????
?? ?????????? ??? ????? ?????????? ? ???' ?????????? ?????????? ? ?????????? ??????????.

[...]»

6 ?? ????? 13 ??? ????? ??????? ?????????? ?? ????:

«?. ??????? ?????????? ?????????????? ??????? ??????????

1. ?? ??? ?????????? ??? ?????????????? ??????????, ?? ?????? ??? ??????????????, ??? ??
????????????? ??? ??????? ??? ?? ?????????????? ? ???? ??? ??? ?????????? ???
????????????? ??? ??????? ??? ?? ?????????????? ??? ?? ?????????????? ??? ?????????????? ???
????????????? ??? ??????????:

[...]

?) ??? ?????? ??? ??????? ? ??? ???, ?? ?????? ? ?????????????? ?????????? [...]
????? ??? ??? ?????? ??????????? ?? ?????? ?????? ?????????? ??? ?????????? ???, ???
????????????? ??? ?????????? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ??????
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[...].

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?? ??? ?????????? ??? ?????????? ??????????, ?? ?????? ??? ??????????, ??? ??
????????????? ??? ???????, ??? ?? ?????????????? ? ???? ??? ??? ?????????? ???
????????????? ??? ??????? ??? ?? ?????????? ?????? ?????????? ??????????????,
????????????? ??? ??????????:

[...]

?) ??? ?????????? ??????? [...].

[...]

?) ??? ?????????? ??? ?????? ? ?????? ?????? ??? ?? ?????????????? ?? ??? ?????? ???????,
????? ??? ?????????????? ??? ?????? 4, ?????????? 3, ?????????? ??.

[...].

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?) .. ????????,

?) .. ??? ?????????? ????. ??? ?, ?????????? ?, ?? ??? ?.

?? ?????? ????. ?????????? ?? ?????????? ????. ?????? ????. ?????????? ????. ?????? ????.

7 .. ?? ????? 17 ????. ?????? ??????? ?? ????:

«1. .. ?? ??????? ????. ?????? ??????? ?????? ????. ????. ????. ????. ????. ????.

2. .. ????. ?? ?????? ????. ?? ?????? ???. ?????????? ?????????? ????. ????. ????. ????.

?) .. ????. ?????????? ???. ?????????? ???. ????. ?????????? ???. ????. ????. ????.

[...]

5. .. ????. ?????? ???. ????. ?????? ???. ????. ?????? ???. ????. ?????? ???. ????.

? ?????? ???. ????. ?????? ???. ????. ?????? ???. ????. ?????? ???. ????.

???????, ?? ?????? ???. ??????:

[...]

?) .. ?? ??????? ???. ????. ?????? ???. ????. ????. ????. ????. ????. ????.

[...]».

8 .. ?? ????? 19 ????. ?????? ?????? ?????? ???. ????. ?????? ?????? ???. ????.

9 .. ? ?????????? ???. ????. ?????? ???. ????. ????. 20 ????. ????.

«[...]

2. ??????? ?? ?? ????? ??????????, ? ?????????????? ?????????? ?????? ??????? ??????? ??????
????, ?????????????????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??????? ?
????????????? ?? ?????? ???' ?????? ? ?????????????? ?????? ??? ?? ?? ?????? ??? ?????? ??
??? ?????? ?????????????? ?? ??????. ? ?????????????? ?????? ??? ?????????????? ?????? ??
??? ?????????? ??? ?????????????? ??? ???????, ?? ?????? ?????????? ?????? ?? ?????? ??
????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ??
? ?????????? ??? ??????.

???? ?????????? ??? ?? ?????? 1, ?? ?????? ??? ?????? ?????????? ?? ?????????????? ?? ??
?? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ?? ?? ?????? ??? ?????? ?? ?????????????? ??
?? ??????.

?????? ?? ?? ?????? ??? ?????? ??????????, ? ?????????? ??? ?????????? ??? ?????????? ??
?? ?????????? ??? ?? ?????????? ?????? ?? ?????? 20 ???.

3. ?? ?????????? ?????????? ??? ??? ?? ?????????? ??? ?????? ??? ?????????? ?? ?????????????? ??
????? ?????????? ?????????? ??? ?? ??? ?????????????? ??? ?? ?????? ??? ?????????? ??
??? ?????????? ?????????????? ???, ?????? ?? ?????? ??? ?????????? ?????????????? ??
????????? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?????????? ?????????? ??
????????? ??? ?? ?????? ??? ?????? ?? ?????????? ??? ?? ?????? ??? ?????? ?????????????? ??
?? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??
?????????????.

?????????, ?? ?????? ??? ???????, ??? ?????????? ??? ?????? ??? ?????????? ??
????????????? ??? ? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????????????? ?? ??
????? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????????? ??? ??????.

[...]»

? ?????? ????????

? ?????????? ????

10 ??? ?????? ?????????? ?? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ??
????????? ?? ??? ??? 1994 ?????? ?? ??? ?????? ?????????????? ??? (Value Added Tax
Act 1994, ??? ????: VATA 1994) ??? ??? ?????????? ??? 1995 ??? ??? ???
????????????? ??? (Value Added Tax Regulations 1995, ??? ????: ?????????? ???
????? ???).

11 ??? ?? ?????? 101, ?????????? 1, ??? ?????????? ?????? ??? ?????? ???, ? ?????? ??
????? ?????? ??? «????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ???
?????».

12 ?? ???? ??? ?????? 114 ??? ?????????? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?? ?????????? ?????????? ??
????????? ?????? ??? ?????? ?? ?? ?????? ??? ?????? ?????? ?? ?????? 115 ??? ?????? ???
????????????? ????. ??? ??? «?????» («interval») ??? ??????, ? ?????? ???
????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ???.

13 ?? ?????? 115, ?????????? 3, ??? ?????????? ?????? ??? ?????? ??? ?????? ??
????? ???.

?? ?????? 20, ?????????? 3, ??? ????? ??????. ? ??????? ????? ?????????? ??? ??????????? «????? ? ?????? ??? ?????????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ??? ??? ?????? ?????? [...] ??? ?????? ??? ?????? ?????????? [...]».

14 ????? ?? ?????????? 9, ?????? 1, ????????? a, ?????? ii, ??? VATA 1994, ? ??????????
?????????? ??????? ?? ???? ?????????????? ?? ?????????????????? ?? ?????????? ??
?????????? ?? ???? ?????? ?? ?????????????? ?? ?????????? ?? ?????? ?????? ??????. ??????? ?? ??
?????????? ?? ?????????????? ?????, ?? ?????????? ?????????? ?? ??????? ?? ?????? ?? ??????
????????????? ?? ??? ?????????? ?????.

15 ??? ??? 30 ?????????? 1994 ??? ?????????? ??? ?????????? 10, ??? 2, ??? VATA 1994
??? ??? ??????????, ? 3 ?, ? ?????? ?????????? ???, ?? ?????????? ??? ??? ?????? ??????
????????? –???' ?????????? ?? ?????? 13, ?, ?????????? ??, ??? ?????? ??????– ?? ??????????
??? ?????????? ????????, ? ??????? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ??? ??????
?? ?? ?????????? ?? ??? ?????? ????????, ??? ?? ?????? ??? VATA 1994, ?? ?????? ??
?? ??????? ??? ?? ?????? «?????? ?????? ?????????? ??? ???». ? ?????????? ???
????????? ??? ??????? ??? ??? 26 ?????????? 1996.

? ?????????? ???? ?? ??? ?????????? ?????????

16 ??? ?? ?????????? ?????????? ???, ???? ?? ??????? ??? ??????? ??????, ??????????
??? ??????? ??????? ?????? ?????????? («freehold»), ???? ?? ??????? ??? ??
????????? ??? ?? ??????? «??????» ??????????, ???? ????? ?? ?????????? ?????? ???????
??? ?????????? ?????? ??????. ? ?????? («lease») ??????? ?????? «leasehold», ???
????????? ?? ?? ??????? ?????? ??????? ??? ?????????? ??? ?????????? ?????? ??????. ??
????????? ??????? ?????????? ??? ?? ??????? ??? ?????????? ??? ?????? ??????????
????????? ??? 999 ????. ? ???? ??? ?????? ?????????? «freehold» ?????? ?? ?????? ??????
?? 999 ??? ?????? ??? ?????????? ?????????? ?????????? ?????? («premium») ??? ??
??????, ? ?????? ??? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ? ??????
?? ?????????? ??? ?????? ???????.

17 ??????? ? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ??????, ??? ??? ???? ????
????? ??? ?????????? ?????? ?????? («unencumbered freehold»), ??? ??? «freehold
reversion», ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????????? ?? ?
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ???
?? ?????????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? (??? ????: ?????????????? ?????? ??????????). ?? ?? ?????? ??? ??????
???? ?????? ??? ? ?????? ??? ?????? ??? ??????, ? ??? ??? ??????????????
????????????? ?????????? ?????? ??? ?????.

18 ?????? ??? ????? ?????? ?????????????? ?????? ?????????? ?????? ?? ?????????? ??
????????? ?????????? ?????????? ??? ?? ?????????????? ?? ?????????? ??? ?????? ?? ?????? ??
????????? ??????. ??????, ??????, ?????????????? ??????? ??????????, ?? ?????????? ??
????????? ?????? ??? ?????????? ??? ?????????????? ??????? ?????????? (??????? ??
????????? ??????????, ???' ?????? ?????? ? ?????????? ??? ?? ??????). ???????, ??????,
????????????? ?? ?????????????? ??????? ??????????, ?? ?????????????? ?? ??????????
????????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ?? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????????.

? ?????????? ??? ??????? ?????? ??? ?? ?????????????? ??????

19 ? Centralan ?????? ??? 100 % ?????????? ??? Centralan Holdings Ltd, ? ?????? ??????

?????? ??? University of Central Lancashire Higher Education Corporation (??? ????: ?????????????). ? Centralan ??????? ?? ?????????? ???' ??????? ??? ?????? 13, ?, ??????? ?, ??? ????? ??????.

20 ? Inhoco 546 Ltd (??? ????: Inhoco) ?????, ??? ???? ? Centralan, ??? 100 % ?????????? ??? Centralan Holdings Ltd. ??????? ??? ? Centralan, ? Inhoco ??? ?????? ?? ?????????? ???' ??????? ??? ???? ??????.

21 ?? 1994 ?? ????????????, ?? ????? ??? ?????????????? ?????????? ?????????? ??? ?? ???? ???????, ??????? ??? ?????? ??? ?????? ?????? ?? Harrington Building (??? ????: ?????? Harrington).

22 ??? 14 ?????????? 1994 ? Centralan ??????? ?? ?????? Harrington ??? ?? ?????????? ??? ????? 6 500 000 ????? ?????????? (GBP), ?? ????? ?????????? ??? ??, ??? 1 370 500 GBP, ??? ??????? ?? ?????? ??? ?????? ??? ?????????? ??? 20 ??? ??? ?????? ?????????? 300 000 GBP, ?????????????? ??? ?????? ??? (??? ????: ?????????? ??????). ? ?????????? ??? ?????? ?? ?????????? ??? Centralan ?? ?????? ??? ??? ??? ?????? ?????? ??? ?????? Harrington.

23 ??? ????? ?? ????????????, ?? ?????????????? ??? ?????????????? ??? ?????????????? ??? ????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? Harrington, ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? Commissioners.

24 ??? ?? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? Harrington, ??? ?????? ??? ?????????????? ??? VATA 1994 ??? ?????????? ??? ????? 15 ??? ?????? ??? ???????, ? Centralan ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????, ??? ?????? ??? ?????? ?? ?????????? ?? ?????? 115, ?????????? 3, ??? ?????????? ??? ?????? ??? ?????? ???.

25 ? ?????????? ??? ?????????????? ?? ??? ?????????? ??????.

26 ? ?????? ??? ???? ???? ???? ???? 22 ??????? 1996 ??????? ?????????? ??? 999 ??? (??? ????: ?????? ??? 999 ???), ??? ?? ?????? ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ?? ??? Inhoco ??? ????? 6 370 000 GBP ??? ?????????? ?????????? ??, ?? ?????????? ??? ?????????? ? ?????????? ??????????.

27 ?? ?? ?????? ??? ?????, ?? ?????????????? ??? 25 ??????? 1996, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? 1 000 GBP (??? ????: ?????????? ??? ?????????? ??? ?????????? ???).

28 ? ?????? ??? ?????? ??? 999 ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ? Centralan, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 10, ??? 2, ?????????? 3 A, ??? VATA 1994.

29 ? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 10, ?? ?????????? ??? ?????? 9, ??? 1, ?????? a, ??? ii, ??? VATA 1994 ???????, ???'

????????? ??? ?????? 4, ?????????? 3, ??? 13, B, ????????? ??, ??? ?????? ???????, ??
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ?????? ??? ??????
??? ??? ??.

30 ?? ?????? ?? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????????????? ??
????????? ??? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? Harrington ??? ??
Centralan, ???' ?????? ??? ?????? 115, ?????????? 3, ??? ?????????? ?????? ??? ??
???. ?? Commissioners ?????????? ??? ? ?????? ??? ?????? ?? ?????? ??? ?? ?
????????? ??? 999 ??? ??? ??? ?????????? ?? ?????? ?????? ?????? ??? ? ?????????? ???
????????????? ?????? ?????????? ??????????, ?????? ??? ?????? ??????. ?????????? ??????????
??? ?????? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 999
??? ??? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ??????????
????????? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??????. ?????? ?? ??? ??? ?????? ??????, ?
Centralan ?? ?????? ?? ?????????? ?? ??? ??? 796 250 GBP ?? ???, ???, ?????? ?? ??
????????? ??????, ?? ??? ??? ?????????? ??? ?? ?????????? ?? 796 090 GBP.

31 ? Centralan ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? VAT and Duties
Tribunal. ? Centralan ?????????? ??? ??? ?????????? ?? ?????? ??? ?????????? ???
????? ?? ?????? ?? ?? ?????? Harrington ?????????? ??? ?????? ?? ?????????? ??? ??????
?????????, ?????? ?????? ??? ???, ?????? ??? ?????? 115 ??? ?????????? ??? ??????
????? ???, ?? ??? 943,93 GBP.

32 ?? VAT and Duties Tribunal, ??? ?????? ??? ?????? ??? Centralan ??? ?? ???
????????? ??? Commissioners, ?????????? ??? ? ?? ??? ?????? ??? ?????? ?????????? ??
????? ??? ?????????? ??? ??? ?????? Harrington ?? ??? ??????????, ??
????????????? ?? ?? ?????? ??? 999 ??? ??? ?? ?? ?????????? ??? ??????????????
????????????? ??????????. ??? ?? Tribunal, ?? ??? ?????? ?????????? ??????????????????
????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ?????????????????,
????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??? ??????????????????
????????????? ?????????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?? 999 ???.

33 ??? ?? ?????? ???, ?? VAT and Duties Tribunal ??????? ??? ?? ??? 20,
????????? 3, ??? ??? ?????? ???, ??? ???' ?????? ??? ?? 115, ?????????? 3, ???
????????? ??? ?????? ???, ?????? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ??????????
????????? ??? ?????? ???, ?????? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ??????????
????????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??????
????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??????
????? ?? ?????? ???, ?? ?? ??? ?????? ?????????? ?????????? ??? ? Centralan ?????? ???
??? ?? ??? ??? 796 090 GBP.

34 ?? Commissioners ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????? ? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????
?????? ???, ?????? ??? ?????? ???.

35 ??? ?? ?????????? ???, ?? High Court of Justice (England & Wales), Chancery
Division, ?????? ??? ?????? ?????? ???, ?????????? ?? ?????????? ??? ?????? ???
????????? ???, ?????????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 115,
????????? 3, ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ?? ?????? ?????????? ?????????? ????:

«????? ??? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? 20, ?????????? 2, ??
????? ?????? ???, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ???
????????????? ?? ??? ?????? ?????????? ??? ? ?????? ?????? ??? ?????? ?????????? ???

??? ???????????, ??? i) ?? ??? ??????? ??? ??????? ??? 999 ??? [????? ???
?????????? ??? ??? ???, ??????? ?? ???? 13, ?, ??????? ??, ??? [?????] ???????]
???? 6 ??????????? [GBP] ???, ??????? ??? ????? ??????, ii) ?? ??? ??????? ???
?????????? ?? ?? ??????? ?????????? ("freehold reversion") [??? ???????????]
?????????? ??????? [????? ??? ??????? ???, ??????? ?? ?? ???? 13, ?,
?????? ??, ??? ?? ????? 4, ?????????? 3, ??????? ??, ??? [?????] ??????] ??? 1 000
[GBP], ??? ??, ?? ????? ?????????? ?????? ?? ????? ??? ?? ?? ?? ???
??????????????, ??? ?? ????? ??, ??? ?? ?????????????? ?? ???, ??? ??
?????????? ?? ?? ?????????????? ?? ???????,

?????? ?? ??? 20, ?????????? 3, ??? ??? ?????? ??????? ??? ?? ?????????? ??? ??
?????? ???:

?) ??? ?? ????? ?????????? ???????, ??? ?? ??? ??? ??????? ???????????????,
?? ?? ?????????????? ??? ?????????? ?????????????? ?? ??? ?????????????? ??? ?? ??
????????? ???????????,

?) ?? ????? ?????????? ???????, ??? ?? ??? ??? ??????? ???????????????, ??? ??
????????????? ??? ?????????? ?????????????? ?? ??? ?????????????? ??? ?? ??
????????? ???????????, ?

?) ??? ?? ????? ?????????? ???????, ??? ?? ??? ??? ??????? ???????????????,
?? ?? ?????????????? ??? ?????????? ?????????????? ?? ??? ?????????????? ??? ?? ??
????????? ??? ?? ????? ?????????? ??, ???' ??????? ??? ?? ?????? ??? ?? ??
????????? ??? ?? "freehold reversion" ??? ??????? ??? ?????????????? ??? ??
???? ?????? ??? 999 ???;»

??? ??? ?????????????? ???????????

36 ?? ?????? ?????????? ???' ??? ??, ???' ??????? ??? ?? ?????? 20, ??????????
3, ??? ?? ?????? ???, ?? ?????? ??? ?????? ?????? ???????, ?????? ??????????
????????? ??? ?????? ?? ??? ?????????? ??? ?????? ??????? ?? ??? ?????? ???, ?? ??????????
????? ?? ??? ??? ?????? ?????????? ??? ?????? ??????? ?? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????????? ?????? ?? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????? ?? ??? ?????? ???
????????? ??? ?????? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????? ?? ??? ?????? ???
?? ?????? ???????????, ???' ??????? ??? ?????? ??????? ??? ?? ??? ?????? ??? ?????? ???
?? ?????? ?????????? ?? ??? ???, ?????? ?????? ??? ?????? ??? 999 ??? ?? ?????? ???
????????? ??? ?????????? ?????? ?????????? ??? ???????, ? ??? ?????? ??????????????
????? ??? ?????? ???????.

37 ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?? ??? ?????? ???
????????? ?? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????????????, ??? ?????? ?????? ?????????? ?????????? ?? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

38 ??????? ?????????? ???, ??? ?????????? ??? ?? ??? ???? 32 ??? ?????????? ????????, ??
VAT and Duties Tribunal ?????????? ??? ?? ??? ?????? ??? ?????????????? ??? ?? ??? ??
????? ??? ?????? ?????????? ?????????????? ??? ?????????????? ?? ?????? ?????????? ???
????????? ?? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????. ???
????????, ?? ?????? ??? ?????????? ?????? ?????? ?? ?????????? ??? ?????? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????? ?????, ??? ?????????????? ??? ??? ??????
????????????? ?????? ??? ?????? ?????.

39 ???? ?? ?????? ????????, ??????? ?? ?????????? ????????????????, ??? ??????? ???,
?????????? ??????? ?? ?????????????? ??? ?? ??????? ?????? ?????? ?????? ??
?????????? ??????? ?? ????? ?? ?????? ?????? ?? ??????? 20, ??????????? 3, ??? ?????? ?????? ?
?????????? ?? ??? ?????? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?? ??
???????.

????????????? ??? ?????????????? ??? ??????????

40 ???? ??? Centralan, ???? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???
????? ?????? ?? ?????? 20, ?????????? 2, ??? ????? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ??
????? ?????????? ??? «????????????? ?????» ?? ??? ??? «????????????? ?????» ??? ???
????? ???, ??????? ?? ?? ?? ?????????? ? ?????????? ?? ?????????? ??? ?????? ??? ?? ??
????? ? ?????????? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ??? ??? ?????? ??????????.
? ?????????? 3 ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ?????????? ???
????????? ??? ?? ??? ?????? ?????? ?? ?????? ?? ?? ?????? ??? ??????, ?????? ? ??????
????? ??? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ? ??? ?????? ???
????????? ??? ?? ??? ?????? ??????, ?????????? ??? ?? ?????? ?????? ?????? ?????? ??????
????? ?????????? ??????, ?? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ???
?? ?????????? ??????. ??????, ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??????????, ?? ??????
????????? ?????????? ?? ?????????? ?????? ?????????? ??????, ??? ??? ?? ?????? ??????
????? ??? ?????? ??? ??? ?????? ?????? ??????

41 ? Centralan ?????? ??????? ?? ?? ? ?????????? ?? ?? ?????????????? ?? ?? ?????????????? ?? ?? ??????????

43 ????????????, ??????, ??? ? ?????? ????????, ?? ?????? ????????????, ??? ? ?????? ????????????, ??? ?
????????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ??? ? ?????? 20, ?????????? 3, ??? ? ?????? ??????
????????????????? ?? ??? ?????????????????? ??????? ??? ???? ?????? ???? ???? ?????? ???? ???? ??????????????
??? ? ??? ?????????????? ??? ???? ?????. ?? ??????? ?????? ?????? ??? ???? ?????? ??? ???? ?????? ??? ?
????? ?????????? ? Centralan ?? ??? ? ?? ??????? ??? ???? ?????? ?????????? ??? ???? ??????????

??? ??????? Harrington, ??????? ? ?????????? ??? ?????????????? ??? ???????????
????????? ?????????????? ??? 0,02 % ??? ??? ??? ??? ???.

44 ? ?????????? ??? ?????????? ?????????? ?????????? ??? ?? ?????? 20, ?????????? 3,
??? ??? ?????? ?????? ??? ?????? ??? ?????? ??????????, ? ?????? ?????????? ?? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????????? ?????????? ???,
????????? ?? ?? ?????? 5, ?????????? 1, ??? ?????? ??????, ?? «????????? ??????» ??????? ?
????????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ??????. ??? ??
?????????, ? ?????? ??? 999 ??? ??? ???????, ??? ?? ?????????? ?????? ??????,
????????? ??????????, ?????? ?????????? ?? ?????????????? ?????? ?????? ??????,
?????????, ? ?????? ?????? ?????? ??????, ??????, ?????? ?????? ?????? ?????? ??????
???? ?? ??? ?????? ??? ?????? 20, ?????????? 3.

45 ? ?????????? ?????????? ???, ??? ???? ? Centralan, ??? ??? ? ?????????? ???
????????????? ??? ?????????? ??? ?????? ??? ??? ??? ?????? ??? ???

46 ? ?????????? ?????????? ???, ?? ??? ?????? ?????????? ???, ???, ?? ??
????????? ???, ??? ?? ??? ?????? ??? ? ??? ?????? ?????? ?? ?????????? ? ??????
??? ?????????? ??????????, ?????? ?? ?????????? ??? ?????? ?????? ??? ?? ?????? ??? ??????
????????? ???, ??? ? ?????????????? ? ??? ?????? ?????????????? ??? ??????????
????? ??? ?????????????? ??? ? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??????
????????, ??? ?????????????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?? ?????????? ???
????????? ?????????????? ??? ?? ??? ?????? ?????? ? ??? ??? ?????? ?????? ?????? ??? ??
????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

47 ???, ??? ??' ?????????? ???, ? ?????????? ?????????? ??? ? ?????????? ?????????? ??? ?
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????, ??? ?? ??? ?????? ??????????
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? Harrington ???
??? ?????????? ???, ??? ?????????? ??? ?????? ?????? ?????? ?????????, ??? ?????? ???
????????? ??? ?? ??? ?????????? ??? ?????? ?????? ?????? ??????, ??? ?? ??? ?????????? ??? ?????? ???
??? ?????????? ???.

48 ?????? ??? ??' ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ??????????
??? ?????? ?? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ???.

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49 ??? ??? ?????? ?????????? ??? ?????????? ??? ??????, ??? ?????? ?????????? ?? ?????????? ???
?? ?????? ??? ?????? ?????????? ?? ?????? 20, ?????????? 3, ??? ?????? ??????, ??? ?????? ??
????????? ?????????? ??? ?????????? ?? ?????? ??? 17 ??? 20, ??? ? ?????? ??? ??????????
?? ?? ?????? ???.

50 ??? ??? ?????? ??????????, ?? ?????????? ??? ?????? 17 ??? 20 ??? ?????? ??????
????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?? ??? ??? ??? ??????
????????? ?? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ??????
?? ?????? ?????? ??? ?????? ?????? (??., ?????? ???, ??? ?????????? ??? 6?? ??????
1995, C-62/93, BP ??????????, ?????? 1995, ?. I-1883, ??? 18, ??? ??? 21?? ??????
2000, C-110/98 ??? C-147/98, Gabalfrisa ?.??., ?????? 2000, ?. I-1577, ????? 43).

51 ????? ???? ?????????????? ?????????????? ?? ??????????, ?????? ??? ?????????? ???
????????? ?????? ? ?????? ?????????? ??? ?????????????? ??? ?? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? (??., ?????? ?????, ??? ?????????? ??? 14?? ?????????? 1985, 268/83,
Rompelman, ?????? 1985, ?. 655, ????? 19, ??? 21?? ?????????? 1988, 50/87, ??????
???? ??????, ?????? 1998, ?. ?-4797, ????? 15, ??? 15?? ?????????? 1998, C-37/95, Ghent
Coal Terminal, ?????? 1998, ?. ?-1, ????? 15, ??? ??? 26?? ????? 2005, C-465/03,
Kretztechnik, ?????? 2005, ?. ?-4357, ????? 34).

52 ??? ?? ?????? ??? ?????? 17, ?????????? 2, ??? ?????? ?????? ?????????? ???, ??? ??
???? ? ?????????????? ?????? ???????, ?????? ?????? ?? ????? «????????????? ???
????» ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?? ?????? ?????? ??? ?? ?????? ??? ??
????????? ?? ????? ?????????????? ??? ??? ?????????????? ??? ?????????????? ???
??? (?. ?????? ??? ?????? ??? 29?? ?????? 2004, C?137/02, Faxworld, ?????? 2004, ?.
I?5547, ????? 24).

53 ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ? ?????????????? ???
??? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ???????, ??? ??
??? ?????? ??? ??? ?????? ?????? ??? ???????, ? ?????? ?????????????? ??? ??????? ??
?? ????? 17, ?????????? 5, ??? ?????? ??????, ??? ??? ?? ?????? ??? ?????? ??? ?? ?????
????????? ??? ?????????????? ??????. ? ?????????? ??? ?????????????? ?????? ?? ?????
????????? ??? ?????????? ?? ????? 19 ??? ?????? ?????? (?. ?????? ??? ?????????? ???
11?? ?????? 1996, C?306/94, Régie Dauphinoise, ?????? 1996, ?. I?3695, ?????? 3 ??? 4,
????? ??? ??? 13?? ?????? 2000, C?136/99, Monte Dei Paschi Di Siena, ?????? 2000, ?.
I?6109, ????? 24).

54 ???????, ?? ?????????? ?????? ??? ?? ?????????? ?????? ??? ?????????? ??? ??
????? ? ?????? ??? ?????? ?????? ? ?????? ??? ?????????? ??? ?????????????? ??? ??????. ??? ??
??? ?????????? ?? ??????????, ? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?? ??? ??
??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ??, ???
??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ??
????????? (?????? ??? 4?? ?????? 1995, C?291/92, Armbrecht, ?????? 1995, ?. I?2775,
????? 27). ??? ?? ?????????? ?????????? ?????? ??? ?????? ?? ?????????? ??? ?????? ???
????? ? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????????? ??? ?????? ?????? ??? ?????? 17 ??? ?????? ?????? ??? ??? ?????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????????? ??? ??? ?????????? ??? ?????? ??? ?????? 20 ??? ?? ?????? ?????? (?. ??????
??? ?????????? ??? 11?? ?????? 1991, C?97/90, Lennartz, ?????? 1991, ?. I?3795, ????? 15,
??? ??? 8?? ?????? 2000, C?396/98, Schloßstraße, ?????? 2000, ?. I?4279, ????? 37).

55 ??? ?????? ?? ?????? ??????????, ?? ?????? 20 ??? ?????? ?????????? ?????????? ???
????????? ???????????. ?????? ?????????? ?? ?????? ???, ??? ?????? ???
????????? ?????? 67/228/???, ??? ??????????, ??? 11?? ?????? 1967, ??? ??????????????
??? ?????????? ??? ?????? ???, ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? -
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????????????? ??? (??
???. ??. 09/001, ?. 5), ?? ?????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????? ? ?? ?????????? ??? (?. ??????? ?? ??????? ??? 1?? ?????????? 1977, 51/76, Verbond van Nederlandse Ondernemingen, ??????? ??? 1977, ?. 55, ??????? 12 ??? 13). ?
?????????? ??? ????? ??, ?????????? ??? ??????? ??? ?? ??????? ??? ??????? ????
?????????? ??? ??????? ??? ?? ??????? ??? ??????? ?? ????? ?? ??????? ??? ??????? 20 ???
????? ??????.

56 ?? ??? 20, ?????????? 3, ??? ?????? ??????? ??????? ??? ?????????? ?????????? ???
????????? ??? ?????? ??????? ??????? ??? ?? ??? ?????? ??? ??????? ?????????? ???.
????????? ??? ? ??????? ?????????? ?????? ?????????? ??? ?? ??? ?????? ?????????? ?,
????? ?????? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?? ??? ??????????
????? ??? ?????? ?????????? . ??????? ?? ?? ?????? ???, ? ?????????? ??????
??? ??? ?????? ?????? ??? ?? ?????? ?? ? ?????????? ?????? ?????? ?????? ??????
????? ?? ??? ???.

57 ??? ?? ??????? ??????? ??? ?????? ??? ??????? ??? ?????????? ? ??? ??????
?????? ?? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ??????????, ??? ??
????????? ? ?????????? ??? ???, ?????? ??? ?????????? ??? ?? ??? ?????? ??? ??
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??
????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??
????? ??? ?? ??????, ??? ?? ?????? ???, ?? ?????? ??? ?????? ??? ?? ??? ?????? ?? ??
????? ??? ?? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ???.

58 ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ? ?????????? ??? ?????? ???
????????? ?? ??? 20, ?????????? 3, ??? ?????? ?????? ??? ?????? ?? ??? ?????????? ???
?? ??? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

??? ??? ?????????? ??? ?????? 20, ?????????? 3, ??? ?????? ??????

59 ?????? ?????? ?? ?????? ?? ?????????? ?????? ??? ? ?????? ??? ?????? ?????? ???
????? ?????? ?? ?????? «????????? ?????????? [...] ??? ?? ?????????? ???
????????? ??? ??????????» ??? ?? ?????? ??? ?????? 20, ?????????? 3, ??? ??????
??????.

60 ?????????? ???, ??? ?? ?????? 5, ?????????? 1, ??? ?????? ??????, «?? "?????????
?????" ?????????? ? ?????????? ??? ?????????? ?? ?????????? ?????? ?????? ?????? ??
?????».

61 ?? ?? ?????????? ???, ?? ?????? ?????????? ?????????? ?????????? ??? ? ?????? ???
?????? Harrington ?????????? ??? ???? ?????????? . ? Centralan ??? ??????????
?? ? ?????? ?????? ?????????? ??? ?????????? ?????? ?????? ?????????? ?? ?? ??? 20,
????????? 3, ??? ?????? ??????, ??? ? ?????? ?????? ??? ? ?????? ??? ? ?????? ???, ???
????????? ??? ?? ?????? ???, ??? ?????? ?????? . ?????? ? ?????? ??? ?????????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ? ?????? ??? ?
????????? ??? ?????????? ??? ?????? ??? ? ?????? ??? ?????? ??? ? ?????? ??? ?
????? ??? ?? ?????? ??? ?????? ?? ?? ?????? ??? ?????? ??? ? ?????? ???.

62 ???????, ??????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????????? ???
??????????, ??? ?? ?????????? ??? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ???
????? ???, ?????????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? 5, ?????????? 1,
?? ???? ?????? ?????? ??? ? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
??????, ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???

?????? ?????????????? ??? ?????????????????? ??? ?? ????????, ??? ??????, ?? ?? ???
????? ?? ?????? (????????? ??? 8?? ?????????? 1990, C?320/88, Shipping and Forwarding
Enterprise Safe, ??????? 1990, ?. I?285, ????? 7, ??? ??? 6?? ?????????? 2003, C?185/01,
Auto Lease Holland, ??????? 2003, ?. I?1317, ????? 32).

63 ???????, ??? ?????? ?????????? ?????????? ?? ?????????????? ??? ???????????,
?????? ?? ?? ?????????? ??? ???????, ?? ? ?????????? ?????? ?????? ?????? ??????????
??? ??????? ?? ??????? ??????? ?? ?????? ?? ?????, ??? ??? ?????? ?? ?????? 5,
????????? 1, ??? ??? ?????? (?. ?????? ??? ?????????? ?????? Shipping and
Forwarding Enterprise Safe, ????? 13).

64 ??? ???????, ?? ??? ?????? ??????? ??? ?????? ?????? ?? ?????? ?????????? ??????????
?? ?????????? ???, ??? ??? ?????????? ?????? ?????????, ?????? ??? ??? ??? ???
????????? ??? ?????? ?????? ?????? ? Centralan ?????? ?? ??? Inhoco ???
????????? ?? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ?? ??????
Harrington ?? ??????, ??????? ??? ??? ??????? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??
«????????» ??? ??? ?????? ??? ?????? 5, ?????????? 1, ??? ??? ?????? ?????? ???, ???????,
??? ?????? 20, ?????????? 3, ??? ?????? ?????.

65 ? ??????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??????????
?? ?????? ??????? ?? ?????? ?????? ??? ?????? ??? ?? ?????? ?????????? ?????? ??? ??????
????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?? ?????????? ?? ??????.

66 ???????????, ?? ??????? ?????? ?? ?????????? ??? ?????????? ?? ?????? ?? ?? ?????? ???
?????? ?? ?????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????, ?????????? ???
????? ??????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?? ?????????? ?? ??????????
????? ??????? ?? ?????? ?? ??????. ??? ???????, ? ?????????? ??? ?????????? ???
????????? ??? ????? 64 ??? ??????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?
Centralan, ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? 999 ???, ??????? ?????? ??
????????????? ?????????? ?????????? ??? ??? ?? ?????? ??? ? ?????? ?????? ??? ?????? ???
????????? ?????????? ??? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ?? ??????????????
???? ?? ?????????? ??? ?????? ?????????? ??? ??? ?? ?????????? ??? ?????? ??????
?????????.

67 ??? ?? ??????? ?????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ? ?????? ???,
????? ?? ?????? ??? ??????? ??? 999 ???, ??? ??? ?????? ???, ?????? ?? ??????????
??? ?????????????? ?????????? ?????????, ?????? ?? ?????????? «????????» ??? ??
????? ??? ?????? ?????.

68 ?? ?????????? ??? ??????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??
????????????? ??? ??? ?????? ?????? ?? ?????? ?????? ??? ??? ?????????? ???
????????????? ??? ?????? 20, ?????????? 3, ??? ?????? ?????? ?, ?????????? ?, ?? ?????? ???
????? ?? ?????? ?????? ?????? ??? ??? ??? ?????? ???.

69 ??? ?????? ?? ?????? ??????????, ?????? ?????? ?? ?????? ????:

– ??? ? ?????? ?? ??? ?????? ? Centralan ?????????? ?????????? ??? ?? ?????????? ???
??? ??? ??? ?????? Harrington, ?????? ? ?????????? ??? ?????????????? ??????????
?????????, ? ?????? ?????? ?????????? ?????????????? ???,

– ??? ? ??? ?????????? ?????? ?????????????? ???, ?????? ?? ?????? ??? ??????????
?? 999 ???, ? ?????? ?????? ?????????? ?????????????? ???,

- ????? ?????????? ?? ??????? ?????.

70 ??????? ?? 20, ?????????? 3, ??? ????? ???????, ?? ?????????? ??????????
???? ?? ??????? ?? ??????? ??????????????, ?? ????? ?????????? ?????????? ?? ?? ????
????????????? ?? ?? ??? ?????????? ?? ?? ?????????? ?????????? ?????????? ?? ?? ????
?? ??? ?? ??????? ??????????. ? ?????????? ??? ?????????? ?????????? ?? ?? ?? ??
????????? ?? ?? ????????????, ??? ?????????? ??? ?? ??? ?????? ? ?????????? ?? ?? ????
?????? ????????????, ?? ?? ?????????? ?? ?????????????? ??? ?????????? ?? ?? ???? ?
????????? ?? ?? ?????? ?????? ??????????????.

71 ? Centralan, ??????????? ??? ??????? ??? ? ??????? ??? ?????????? ?? ?????? ??????,
????? ?????????? ??? ?? ?????? ???, ??? ?????????? ?????? ??? ?????? ??? ?????? «????????? [...]
????? ?? ?????????? ??? ?????????? ??? ??????????????» ?????????? ?? ??? ?????? ?????? ??????,
????????? ??? ?? ?????? Harrington ??? ?????? ?????? ??? ??? ?????????? ??? ??? ?????? ???
????????????? ?? ?????????????? ?????? ?????????? ??????????. ? Centralan ?????????? ??? ?
????????????? ??? ?????????? ?????? ?? ?????????????? ?????? ??? ?????????? ???
????????????? ???.

72 ??? ?? ??????? ?? 20, ??????????? 3, ??? ?????? ??????? ?? ?????? ?????? ??
???????, ?? ?????????? ?? ???? ?? ???? ? «??????» ?????????? ?? ??? ??????
????????????? ?????? ?? ???????, ??????? ?? ??? ?????? ?????? ?? ?????? ?? ??????????????
?????? ?? ???????, ??? ?? ??? ?? ??? ?????? ?????? ?????? ?? ?????????? ?????? ??
????????????? ??? ?? ??? ?? ??? ?????? ??????????????.

73 ?????????????? ??? ?? ??????? 50 ??? 57 ??? ?????????? ??????????, ?????? ???
?????????? ??? ?????????? ??? ?????????????? ?? ?????? ?????????????? ??? ?????? 17 ??? 20
??? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????
?????????? ??? ??????? ??? ??? ??????? ??? ??? ?????????????? ??? ?????? ?????? ???
????????? ??? ?????????????? ??????.

74 ?????????????? ? ??????????? ???, ??? ??? ?????????? ?????????????? ??? ?????????? ???
?????? ??????, ? ??????? ?????? ?? ?????????????? ????? ??? ?????????????? ?????? ???
?????, ?? ??????? ??? ??? ??? ?????? ?????????? ?????????? ?????? ?????? ?????????? ???
????? ????. ??????????????, ? ?????????????? ??? ?????????? ??? ??? ?????? ?????????? ??
????????????? ? ?????????????? ?????????? ??? ?????? Harrington ????????, ?? ???
????? ?????????? ??? ?????? ?? ??? ?????? ?????.

75 ????????, ??? ??????????? ?? ?????? ?? ?????? ?? ??????? ?? ?????? ?? ?????, ? ?????? ?? ??????
?? ?? ???????????, ?? ?????????? ?? ?????? ? ??????? ?? ??????? ?? ?????, ?? ?????? ?? ????? ??
?????????? ?? ??????? ?? ??????? ?? ?????? ?? ??????? ?? ?????? ?? ??????? ?? ??????? ?? ??????? ??
?????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????.

77 ? ?????????? ??? ?????????? ?????? ??? ?????????????? ??? ?? ?????????? ??? ?? ??????? 20,
?????????? 3, ??? ?????? ??????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??????????????, ???
?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ???????, ?.?. ??? ??
????? 17, ?????????? 5. ???????????, ?? ?????? ??? ?????????????? ??? ??????? ??

????? ????????, ??? ?????? ?????? ?????????? ?? ?? ??? ????? ????? 20, ?????????? 3, ?????? ??
????????? ?? ???? ?? ??? ?????? ???, ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ?????? ?????????????? ?????? ??? ?????? ?????????????? ???
????? ??? ?????? ?????? ?????????????? ??????.

78 ? ???????, ? ??????? ??? ?????????? ?????? ?????????????? ??? ?? ??? ?????????? ???
?????????. ?? ?????????? ?????? ?????? ??? ? ?????? ?????? ?????????? ?????????? ??????????
????? ??? ??? ?????????? ??? ?????? ??? ?????? ? ?????? ?????? ??? ?????? ?????? ??? ??
????????? ??? (????????????? ?????? Armbrrecht, ?????? 29 ?? 32, ??? ?????? ???
26?? ?????????? 1996, C?230/94, Enkler, ?????? 1996, ?. I?4517, ??? 38).

79 ? Centralan ??? ? ??????? ?????? ?????? ??? ?????????? ?????????? ??? ?????????? ???
?? ???????, ???' ????, ?? ?????? ?????? ?? ??? ?? ??? ?????????? ??? ?? ??? ?????? ???
????????? ??? ?????? 20, ?????????? 3, ??? ?????? ??????. ?????? ?????????? ?????????? ???
??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????????? ?????????????? ??? ?? ??? ??????
????????????? ?????? ??????????.

80 ??? ??? ?? ??? ?????? ?????? ??? ?????????? ?? ?????????? ? ?????? ??? ?????????? ???,
? ?????? ??? ?????? ???????, ?????? ? ?????????? ??? ?? ?????????? ?????????? ??? ??????????
????????? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?? ??? ?????????? ???
??? ?????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?? ??? ?????????? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? . ???????, ??? ?????????? ? ??????
????????? ?? ?? ?????? 56 ??? 58 ??? ?????????? ???, ??? ?????????? ??? ?? ??? ?? ?? ..
??????, ???' ??????? ??? ?????? 20, ?????????? 2, ??? ?????? ??????, ??
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??? ??
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
????? ?? ?????? ??? ?????????? ??????????.

81 ?????, ??????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 20,
????????? 3, ??? ?????? ?????? ??????, ??? ?????????? ?????? ?? ??? ?? ??????????
??? ?????? ??? ?????? ?????, ??? ?????? ?? ?????? ?????????? ?????????? ??? ?? ??????????
??? ?????????? ??? ?????? 64 ??? ?????? ??????, ??? ?????? ?????? ??? ?? ???
????????? ?????? ?????????? ??? ?????? ?? ?????? ? ?????????? ??? ?? ?????????? ???
????? ?????????? ?? ??????, ?? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ??
??? ??? ??????, ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ??????????
??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ??? ?????? ???.

82 ??? ??? ??????? ????, ??? ?????????? ?????? ?????? ??? ?????? ?? ??? ?????? ? ?????????? ???
?? ?????? 20, ?????????? 3, ??? ?????? ?????? ??? ?? ??? ?????? ???, ??? ?????????? ??
??? ?????? ?????? ?????? ?????????? ??? 999 ??? ?????? ??? ?????? ??? ?????????? ??????????
????????? ??? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????
????????? ??? ?? ??? ?????? ??????.

- ????? ?????? ?????????? ???

- ?????????? ?? ??? ?????, ?????????? ???, ?????? ??? ?? ??? ?????? ??? ?????????? ???,
?????

- ??? ?????? ?? ??????? ?????? ??????????, ???? ??? ???????????? ??? ??????? ??
????????? ? ?????????? ??? ??????????? ?? ?? ??? ????? ?????? ?????????? ?? ??????, ??????????
???? ??? ?????? ??? ?????? 5, ?????????? 1, ??? ????? ????? ??????,
?? ?? ??? ????? ?????? ??????? ?? ??? ?????? ?????? ?????????? ???
????????????????? ??? ?????????? ?????? ??? ?????? ?????? ?????????? ?? ?????? ?? ??????
????????????? ??? ?? ??? ????? ???????????, ???' ?????? ??? ?????? ?????????? ?? ??????
?????????.

??? ??? ?????????? ????

83 ??? ??????? ??? ? ?????????? ???, ?? ??? ?????? ?????? ?????????? ??? ??????? ???,
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ???, ?' ???
????????? ?? ?????? ??? ??? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????
???? ?????? ?????? ?????????? ??? ?????????? ???, ??? ??? ?? ??? ?????????? ???
?????????.

??? ??? ?????? ????, ?? ?????????? (????? ????) ??????????:

?? ??? 20, ?????????? 3, ??? ??? ?????? 77/388/??? ??? ??????????, ??? 17??
????? 1977, ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
???? ?????? ?????? ?????? – ??? ?????? ?????? ?????? ?????????????? ?????:
????????? ?????????? ???, ??? ?????????? ??? ?????? ?????? 95/7/?? ???
????????? ??? 10?? ?????? 1995, ??? ??? ?????? ???, ??? ?????????? ??? ???
????????? ?????? ??? ?????? ?????? ??? 999 ??? ?????? ??? ?????????? ??????????
????????? ?????? ??? ?? ?????????? ?????? ?????????? ?????????? («freehold reversion»)
??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?? ??? ?????? ????
???? ?????????? ????, ?????? ?? ??? ?????? ??????

- ??? ?????? ????

- ?????????? ?? ??? ???, ????????????, ?????? ??? ?? ??? ??????,
???????????, ????

- ??? ?????? ?? ?????? ?????? ?????? ??????????, ???? ??? ?????????? ??? ???????
?? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ?????????? ?? ??????,
????????? ??? ?? ??? ?????? ??? ?????? 5, ?????????? 1, ??? ?????? ?????? ??????,
?? ?? ??? ????? ?????? ?????? ?? ??? ?????? ?????? ?????????? ???
????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?? ??????
????????? ??? ?? ??? ?????? ??????.

(?????????)

* ?????? ??????????: ? ??????.